IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 137 OF 2003

Shri Aristides Jose
Francisco Caius D'Silva,
major, married, r/o Madda
wado, Calangute, Bardez,
Goa. ... Petitioner.

Versus

1. Shri Vincent Fernandes,
major, married,

2. Shri Aleixo Fernandes,
major,

3. Shri Santan Fernandes,
major,

4. Shri Joao Fernandes,
major,

5. Shri Noel D'Souza,
major,

6. Shri Francis P. Fenandes,
major,

7. Shri Joaquim Philip
Fernandes, major,

8. Shri Andrew Cardoz,
major,

9. Shri Salis Fernandes,
major,

10. Shri Alesin Fernandes,
major,

11. Shri Damian Fernandes,
major, and

12. Shri Custodio Fernandes,
major, respondent nos.1,2,5,9,
10,11 & 12, are r/o Madda Wado,
Calangute and respondent nos.3,
4, 6, 7 and 8 are r/o Umta Wado,
Calangute, Bardez, Goa. ... Respondents.

Shri V. Menezes, advocate for the petitioner.

Shri J. Vaz, advocate for respondent nos. 1, 3, 4, 6, 7, 8, 10 & 12.

CORAM : F. I. REBELLO, J.

DATE : 3rd July, 2003.

ORAL JUDGMENT

Rule. Respondents waive service. Heard forthwith.

2. Considering the two concurrent findings of fact based on the condition imposed by the Panchayat when the petitioner constructed the house, at least at this stage, it will not be possible to interfere with the orders of the courts below.

3. There is however, one more grievance raised by the petitioner that the road is sought to be shown all around the house. There is a plan at page 108 which has been filed by the respondents to the affidavit in reply. The road is shown in dotted lines as B-A-C. The road from point B to point A will enable access to all the parties including plot bearing survey no.173/3. In that light of the matter the access is restricted to point B to A. There shall be an injunction insofar as point A to C is concerned, whereby the respondents are restrained from using that part of the access shown in dotted line, pending the hearing and final disposal of the suit.

4. Rule made partly absolute accordingly. There shall be no order as to costs.

F. I. REBELLO, J.